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HOUSE BILL 288

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Debbie A. Rodella

AN ACT

RELATING TO SEARCH AND RESCUE VOLUNTEERS; PROVIDING RETIREMENT BENEFITS FOR SEARCH AND RESCUE VOLUNTEERS; CREATING THE SEARCH AND RESCUE VOLUNTEERS RETIREMENT FUND; MAKING AN ANNUAL APPROPRIATION FROM THE FIRE PROTECTION FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 8 of this act may be cited as the "Search and Rescue Volunteers Retirement Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the Search and Rescue Volunteers Retirement Act:

A. "association" means the public employees retirement association;

B. "board" means the retirement board of the association;

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1 C. "fund" means the search and rescue volunteers  
2 retirement fund;

3 D. "member" means an unpaid, nonsalaried search  
4 and rescue volunteer who is certified as a search and rescue  
5 person pursuant to the Search and Rescue Act, who is listed as  
6 an active member of a search and rescue resource group and  
7 whose first year of service credit was accumulated during or  
8 after the year he attained the age of sixteen and no later  
9 than during the year in which he attained the age of forty-  
10 five. Excluded from membership is any search and rescue  
11 volunteer who has been retired by or is receiving an annuity  
12 from any other retirement, pension or annuity plan created and  
13 established by the state or any of its political subdivisions;  
14 and

15 E. "search and rescue resource group" means a  
16 search and rescue resource group recognized pursuant to the  
17 Search and Rescue Act as available for search and rescue  
18 missions in New Mexico.

19 Section 3. [NEW MATERIAL] SEARCH AND RESCUE VOLUNTEERS  
20 RETIREMENT FUND-- CREATION-- ANNUAL APPROPRIATION FROM THE FIRE  
21 PROTECTION FUND. --

22 A. The "search and rescue volunteers retirement  
23 fund" is created in the state treasury. Earnings of the fund  
24 shall be credited to the fund, and money in the fund shall not  
25 revert to any other fund. The fund is appropriated to the

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1 board for the purpose of paying annuities or other benefits  
2 pursuant to the Search and Rescue Volunteers Retirement Act.

3 B. Beginning in fiscal year 2000 and in each  
4 fiscal year thereafter, five hundred thousand dollars  
5 (\$500,000) is appropriated from the fire protection fund to  
6 the search and rescue volunteers retirement fund.

7 Section 4. [NEW MATERIAL] ADMINISTRATION OF THE SEARCH  
8 AND RESCUE VOLUNTEERS RETIREMENT ACT, PROGRAM AND FUND BY THE  
9 BOARD-- ANNUAL ACTUARIAL EVALUATION. --

10 A. The provisions of the Search and Rescue  
11 Volunteers Retirement Act and the search and rescue volunteers  
12 retirement program authorized by that act shall be  
13 administered by the board. The provisions of law relating to  
14 the administration and investment of retirement funds  
15 administered by the board shall apply to the search and rescue  
16 volunteers retirement fund. In its administration of the  
17 search and rescue volunteers retirement program, the board is  
18 authorized to adopt rules.

19 B. The board shall provide for an annual actuarial  
20 evaluation of the search and rescue volunteers retirement fund  
21 and shall make recommendations to the legislature for any  
22 changes necessary to maintain the actuarial soundness of the  
23 fund.

24 Section 5. [NEW MATERIAL] RETIREMENT BENEFITS--  
25 ELIGIBILITY. --

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1           A. A member who attains the age of fifty-five  
2 years and has twenty-five years or more of service credit  
3 shall be eligible to receive a retirement annuity of two  
4 hundred dollars (\$200), payable monthly from the fund during  
5 the remainder of his life.

6           B. A member who attains the age of fifty-five  
7 years and has at least ten but less than twenty-five years of  
8 service credit shall be eligible to receive a retirement  
9 annuity of one hundred dollars (\$100), payable monthly from  
10 the fund during the remainder of his life.

11           C. A person who ceases to be a member after  
12 completing at least ten but less than twenty-five years of  
13 service credit is eligible to receive upon attaining the age  
14 of fifty-five years a retirement annuity of one hundred  
15 dollars (\$100), payable monthly from the fund during the  
16 remainder of his life.

17           D. A person who ceases to be a member after  
18 completing twenty-five years of service credit is eligible to  
19 receive upon attaining the age of fifty-five years a  
20 retirement annuity of two hundred dollars (\$200), payable  
21 monthly from the fund during the remainder of his life.

22           E. A person who qualifies for and receives a  
23 retirement annuity pursuant to this section may continue as a  
24 member. However, the individual shall not accrue additional  
25 service credit for the purpose of increasing the amount of the

1 retirement annuity.

2 Section 6. [NEW MATERIAL] DETERMINATION OF SERVICE  
3 CREDIT. --

4 A. A member may claim one year of service credit  
5 for each year in which a search and rescue resource group  
6 certifies that the member:

7 (1) attended seventy-five percent of all  
8 scheduled training sessions or drills;

9 (2) attended seventy-five percent of all  
10 scheduled business meetings; and

11 (3) was active in at least fifty percent of  
12 all search and rescue missions in which the search and rescue  
13 group participated.

14 B. The head of each search and rescue resource  
15 group shall submit to the association by April 30 of each year  
16 the records of attendance of members for training sessions or  
17 drills, business meetings and missions during the preceding  
18 calendar year. The records shall be:

19 (1) submitted on forms prescribed by the  
20 state search and rescue review board;

21 (2) acknowledged by the head of the search  
22 and rescue resource group under oath before a notary public;  
23 and

24 (3) approved and signed by the state search  
25 and rescue resource officer.

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1           Section 7.   [NEW MATERIAL] RETIREMENT ANNUITY--SURVIVING  
2 SPOUSE.--In the event a retirement annuitant dies, the  
3 surviving spouse shall receive an annuity equal to two-thirds  
4 of the retirement annuity being paid to the retirement  
5 annuitant at the time of death; provided, the annuity shall  
6 cease upon the surviving spouse's marriage or death.

7           Section 8.   [NEW MATERIAL] APPLICABILITY.--The service  
8 credit provisions of the Search and Rescue Volunteers  
9 Retirement Act shall apply to years beginning on or after  
10 January 1, 2000; provided, a person who on or before January  
11 1, 1995 was forty-five years of age or younger shall be  
12 eligible to be a member, notwithstanding the provisions of  
13 Subsection D of Section 2 of that act, and shall be eligible  
14 for one year of service credit for each year prior to the 2000  
15 calendar year that a search and rescue resource group  
16 certifies the person met the service credit provisions of  
17 Subsection A of Section 6 of that act, but in no case shall a  
18 person be eligible for more than five years of service credit  
19 prior to January 1, 2000.

20           Section 9.   Section 10-11-2 NMSA 1978 (being Laws 1987,  
21 Chapter 253, Section 2, as amended) is amended to read:

22           "10-11-2.   DEFINITIONS.--As used in the Public Employees  
23 Retirement Act:

24           A.   "accumulated member contributions" means the  
25 amounts deducted from the salary of a member and credited to

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1 the member's individual account, together with interest, if  
2 any, credited to that account;

3 B. "affiliated public employer" means the state  
4 and any public employer affiliated with the association as  
5 provided in the Public Employees Retirement Act, but does not  
6 include an employer pursuant to the Magistrate Retirement Act,  
7 the Judicial Retirement Act or the Educational Retirement Act;

8 C. "association" means the public employees  
9 retirement association established under the Public Employees  
10 Retirement Act;

11 D. "disability retired member" means a retired  
12 member who is receiving a pension pursuant to the disability  
13 retirement provisions of the Public Employees Retirement Act;

14 E. "disability retirement pension" means the  
15 pension paid pursuant to the disability retirement provisions  
16 of the Public Employees Retirement Act;

17 F. "educational retirement system" means that  
18 retirement system provided for in the Educational Retirement  
19 Act;

20 G. "employee" means any employee of an affiliated  
21 public employer;

22 H. "federal social security program" means that  
23 program or those programs created and administered pursuant to  
24 the act of congress approved August 14, 1935, Chapter 531, 49  
25 Stat. 620, as that act may be amended;

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1 I. "final average salary" means the final average  
2 salary calculated in accordance with the provisions of the  
3 applicable coverage plan;

4 J. "form of payment" means the applicable form of  
5 payment of a pension provided for in Section 10-11-117 NMSA  
6 1978;

7 K. "former member" means a person who was  
8 previously employed by an affiliated public employer, who has  
9 terminated that employment and who has received a refund of  
10 member contributions;

11 L. "fund" means the funds included under the  
12 Public Employees Retirement Act;

13 M. "member" means a currently employed,  
14 contributing employee of an affiliated public employer, or a  
15 person who has been but is not currently employed by an  
16 affiliated public employer, who has not retired and who has  
17 not received a refund of member contributions; "member" also  
18 includes the following:

19 (1) "hazardous duty member" means a state  
20 policeman who is a member and who is a juvenile or adult  
21 correctional officer employed by a corrections facility of the  
22 corrections department or its successor agency;

23 (2) "municipal fire member" means any member  
24 who is employed as a full-time nonvolunteer firefighter by an  
25 affiliated public employer and who has taken the oath

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1 prescribed for firefighters;

2 (3) "municipal police member" means any  
3 member who is employed as a police officer by an affiliated  
4 public employer, other than the state, and who has taken the  
5 oath prescribed for police officers; and

6 (4) "state police member" means any member  
7 who is an officer of the New Mexico state police and who has  
8 taken the oath prescribed for such officers;

9 N. "membership" means membership in the  
10 association;

11 O. "pension" means a series of monthly payments to  
12 a retired member or survivor beneficiary as provided in the  
13 Public Employees Retirement Act;

14 P. "public employer" means the state, any  
15 municipality, city, county, metropolitan arroyo flood control  
16 authority, economic development district, regional housing  
17 authority, soil and water conservation district, entity  
18 created pursuant to a joint powers agreement, council of  
19 government, conservancy district, water and sanitation  
20 district, water district and metropolitan water board,  
21 including the boards, departments, bureaus and agencies of a  
22 public employer, so long as these entities fall within the  
23 meaning of governmental plan as that term is used in Section  
24 414(d) of the Internal Revenue Code of 1986, as amended;

25 Q. "refund beneficiary" means a person designated

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1 by the member, in writing, in the form prescribed by the  
2 association, as the person who would be refunded the member's  
3 accumulated member contributions payable if the member dies  
4 and no survivor pension is payable or who would receive the  
5 difference between pension paid and accumulated member  
6 contributions if the retired member dies before receiving in  
7 pension payments the amount of the accumulated member  
8 contributions;

9 R. "retire" means to:

10 (1) terminate employment with all employers  
11 covered by any state system or the educational retirement  
12 system; and

13 (2) receive a pension from a state system or  
14 the educational retirement system;

15 S. "retired member" means a person who has met all  
16 requirements for retirement and who is receiving a pension  
17 from the fund;

18 T. "retirement board" means the retirement board  
19 provided for in the Public Employees Retirement Act;

20 U. "salary" means the base salary or wages paid a  
21 member, including longevity pay, for personal services  
22 rendered an affiliated public employer. "Salary" shall not  
23 include overtime pay, allowances for housing, clothing,  
24 equipment or travel, payments for unused sick leave, unless  
25 the unused sick leave payment is made through continuation of

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1 the member on the regular payroll for the period represented  
2 by that payment, and any other form of remuneration not  
3 specifically designated by law as included in salary for  
4 Public Employees Retirement Act purposes. Salary in excess of  
5 the limitations set forth in Section 401(a) (17) of the  
6 Internal Revenue Code of 1986, as amended, shall be  
7 disregarded. The limitation on compensation for eligible  
8 employees shall not be less than the amount that was allowed  
9 to be taken into account under the state retirement system  
10 acts in effect on July 1, 1993. For purposes of this section,  
11 "eligible employee" means an individual who was a member of a  
12 state system before the first plan year beginning after  
13 December 31, 1995;

14 V. "state system" means the retirement programs  
15 provided for in the Public Employees Retirement Act, the  
16 Magistrate Retirement Act and the Judicial Retirement Act;

17 W. "state retirement system acts" means  
18 collectively the Public Employees Retirement Act, the  
19 Magistrate Retirement Act, the Judicial Retirement Act, [ and]  
20 the Volunteer Firefighters Retirement Act and the Search and  
21 Rescue Volunteers Retirement Act; and

22 X. "survivor beneficiary" means a person who  
23 receives a pension or who has been designated to be paid a  
24 pension as a result of the death of a member or retired  
25 member. "

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1           Section 10.   Section 10-11-3 NMSA 1978 (being Laws 1987,  
2 Chapter 253, Section 3, as amended) is amended to read:

3           "10-11-3.   MEMBERSHIP--REQUIREMENTS--EXCLUSIONS--  
4 TERMINATION.--

5           A.   Except as may be provided for in the Volunteer  
6 Firefighters Retirement Act, the Search and Rescue Volunteers  
7 Retirement Act, the Judicial Retirement Act, the Magistrate  
8 Retirement Act, the Educational Retirement Act and the  
9 provisions of Sections 29-4-1 through 29-4-11 NMSA 1978  
10 governing the state police pension fund, each employee and  
11 elected official of every affiliated public employer shall be  
12 a member of the association, unless excluded from membership  
13 in accordance with Subsection B of this section.

14           B.   The following employees and elected officials  
15 are excluded from membership in the association:

16                   (1)   elected officials who file with the  
17 association a written application for exemption from  
18 membership within thirty days of taking office;

19                   (2)   elected officials who file with the  
20 association a written application for exemption from  
21 membership within thirty days of the date the elected  
22 official's public employer becomes an affiliated public  
23 employer;

24                   (3)   employees designated by the affiliated  
25 public employer as seasonal or student employees;

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1 (4) employees who file with the association a  
2 written application for exemption from membership within  
3 thirty days of the date the employee's public employer becomes  
4 an affiliated public employer;

5 (5) employees of an affiliated public  
6 employer that is making contributions to a private retirement  
7 program on behalf of the employee as part of a compensation  
8 arrangement who file with the association a written  
9 application for exemption within thirty days of employment,  
10 unless the employee has previously retired under the  
11 provisions of the Public Employees Retirement Act; and

12 (6) employees of an affiliated public  
13 employer who have retired under and are receiving a pension  
14 pursuant to the provisions of the Educational Retirement Act.

15 C. Employees designated as seasonal and student  
16 employees shall be notified in writing by their affiliated  
17 public employer of the designation and the consequences of the  
18 designation with respect to membership, service credit and  
19 benefits. A copy of the notification shall be filed with the  
20 association within thirty days of the date of employment.

21 D. An exemption from membership by an elected  
22 official shall expire at the end of the term of office for  
23 which filed.

24 E. Employees and elected officials who have  
25 exempted themselves from membership may subsequently withdraw

1 the exemption by filing a membership application. Membership  
2 shall commence the first day of the first pay period following  
3 the date the application is filed.

4 F. The membership of an employee or elected  
5 official shall cease if the employee terminates employment  
6 with an affiliated public employer or the elected official  
7 leaves office and the employee or elected official requests  
8 and receives a refund of member contributions. "